

STATE OF MICHIGAN  
COURT OF APPEALS

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In re Estate of LOUISE ARVIN, Deceased.

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SHARON LATZ, Personal Representative of the  
Estate of Louise Arvin, Deceased,

Petitioner-Appellant,

v

CARDINAL DEVELOPMENT COMPANY, d/b/a  
OVID HEALTHCARE CENTER,

Respondent-Appellee.

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UNPUBLISHED  
January 17, 2003

No. 236820  
Clinton Circuit Court  
LC No. 01-009281-NZ

Before: Murray, P.J., and Sawyer and Fitzgerald, JJ.

MURRAY, P.J. (*concurring*).

I concur in the majority's conclusion that the *allegations* in plaintiff's proposed second amended complaint can, at this procedural juncture, be construed to allege a negligence claim, rather than a medical malpractice claim. *Turner v Mercy Hospitals & Health Services*, 210 Mich App 345, 348; 533 NW2d 365 (1995). However, given the asserted (but not presently documented) condition of decedent's skin, discovery may (or may not) reveal that those allegations in the second amended complaint, considered in the context of decedent's condition, do fall within the purview of a malpractice claim. I also note that nothing in the majority's opinion, nor in the court rules, prohibits the filing of another motion for summary disposition once the parties engage in discovery.

/s/ Christopher M. Murray